

APR 2 1999

PATRICK FISHER
Clerk

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

JOHN H. MARRS,

Plaintiff-Appellant,

v.

SHON P. BOLES; CURTIS L. ODLE,

Defendants-Appellees.

No. 98-3211
(D.C. No. 96-CV-1079-MLB)
(D. Kan.)

ORDER AND JUDGMENT *

Before **BRORBY** , **EBEL** , and **LUCERO** , Circuit Judges.

John H. Marrs appeals the district court's grant of summary judgment to defendants on his civil rights claim of arrest without probable cause, filed pursuant to 42 U.S.C. § 1983. ¹ Our jurisdiction over this appeal arises under 28 U.S.C. § 1291.

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

¹ After examining the briefs and appellate record, this panel has determined unanimously to grant the parties' request for a decision on the briefs without oral argument. See Fed. R. App. P. 34(f) and 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

The district court concluded that defendants were entitled to summary judgment because, on the record before it, probable cause for the arrest existed as a matter of law and because defendants were entitled to qualified immunity. On appeal, Mr. Marrs contends that his ultimate acquittal of the charges demonstrates a lack of probable cause and that defendants acted unreasonably under the circumstances. We review the district court's grant of summary judgment de novo. *See Kaul v. Stephan*, 83 F.3d 1208, 1212 (10th Cir. 1996).

After careful review of the record on appeal together with the applicable law and the parties' briefs on appeal, we conclude that the district court correctly decided this case. Therefore, for substantially the same reasons contained in the district court's Memorandum and Order dated July 15, 1998, the judgment of the United States District Court for the District of Kansas is AFFIRMED.

ENTERED FOR THE COURT

Carlos F. Lucero
Circuit Judge